**THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY**

**WRIT PETITION No.23240 OF 2005**

**Dated 3rd November 2005**

**Between:**

K.Jairam Hebbar

**…Petitioner**

And

The Chairman, National Remote Sensing Agency,

Governing Body/Secretary, Department of Space,

New Bel Road, Bangalore & others

**…Respondents**

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**O R D E R:**

The petitioner retired from National Remote Sensing Agency, as Group Director. The first respondent initiated disciplinary proceedings against the petitioner, and appointed the third respondent, as the enquiry officer, through his order, dated 3.5.2002. The petitioner raised objection, as to the capacity of the third respondent, to conduct departmental enquiry.

Sri T.Venkat Reddy, learned counsel for the petitioner, submits that the petitioner held very senior post in the organization, and the third respondent was far junior to the petitioner, when he was in service. Placing reliance upon the office memorandum, dated 6.1.1971, issued by the Government of India, he submits that it is only an officer who was senior to the petitioner that could have conducted enquiry, against him.

Sri Deepak Bhattacharjee, learned Standing Counsel for the respondents, on the other hand, submits that the post held by the third respondent is fairly superior to the one, which was held by the petitioner, while in service, and that the scale of pay can never be a factor in this regard.

The short question that arises for consideration in this writ petition is, as to whether the third respondent can function as an enquiry officer, in the disciplinary proceedings against the petitioner. While the petitioner asserts that the third respondent is junior to him in rank, as well as in service, the respondents insist that the post held by the petitioner, while in service, was inferior to that of the third respondent. Learned Standing Counsel places reliance upon a judgment of the Supreme Court, which is to the effect that a retired employee has to be treated, for all practical purposes, as an ordinary citizen, and the question of equation of any position, in respect of such person, does not arise.

Apart from the fact that the petitioner had since retired from service, the instant case presents a typical situation. While the petitioner was an employee of National Remote Sensing Agency, the third respondent is from the Department of Space. It is difficult to compare the relative superiority, in such cases. This may require examination of the relevant orders or clarifications issued by the Government from time to time. The enquiry need not be stalled till then. Instead of dealing with such question, at this stage, this Court finds it appropriate to direct the enquiry to be proceeded with, by leaving that question open to be dealt with, at appropriate stage.

For the foregoing reasons, the writ petition is disposed of, directing that the enquiry against the petitioner shall be proceeded with, with the third respondent functioning as enquiry officer. The question as to whether the equation of positions held by employees, or scales of pay drawn by them, would become relevant, in respect of proceedings initiated against a retired employee, is left open. In case, the petitioner is found guilty of any charges, it shall be open to him to raise this aspect also in his explanation, before the disciplinary authorities. There shall be no order as to costs.

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**3rd November 2005**

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